

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JEFFREY SMITH,

Plaintiff,

v.

PORTFOLIO RECOVERY ASSOCIATES,
L.L.C.,

Defendants.

COURT FILE NO.: _____

COMPLAINT

JURY TRIAL DEMANDED

Plaintiff, Jeffery Smith ("Plaintiff"), by and through his attorney, Subhan Tariq, Esq., as and for his Complaint against the Defendant, Portfolio Recovery Associates, LLC., (hereinafter referred to as Defendant(s)), respectfully sets forth, complains and alleges, upon information and belief, the following:

JURISDICTION AND VENUE

1. Jurisdiction of this Court arises under 28 U.S.C. § 1331 and pursuant to 15 U.S.C. § 1692k(d), and pursuant to 28 U.S.C. § 1367 for pendent state law claims.
2. This action arises out of Defendants' repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA") and out of the invasions of Plaintiff's personal and financial privacy by these Defendants and their agents in their illegal efforts to collect a consumer debt from Plaintiff.
3. Venue is proper in this District because the acts and transactions occurred here, Plaintiff resides here, and Defendants transact business here.

PARTIES

4. Plaintiff Jeffrey Smith is a resident of State of New York, residing at 623 Dartmouth Street, Westbury, NY 11590.

5. Defendant Portfolio Recovery Associates, LLC is a Delaware corporation engaged in the business of collecting debts with its principal place of business located at 120 Corporate Blvd., Norfolk, VA 23502.
6. Plaintiff is a “consumer” as defined by the FDCPA, 15 USC § 1692a(30).
7. The Defendant is a “debt collector” as defined and used in the FDCPA under 15 USC § 1692a(6).

FACTUAL ALLEGATIONS

8. Plaintiff repeats, reiterates, and incorporates the allegations contained in paragraphs numbered “1” through “7” herein with the same force and effect as if the same were set forth at length herein.
9. Upon information and belief, Defendant, on behalf of a third-party, began efforts to collect an alleged consumer debt from the Plaintiff.
10. Upon information and belief, and better known to the Defendant, the Defendant began its collection efforts and campaign of communications with the Plaintiff by writing to Plaintiff.
11. On or about February 16, 2015, Plaintiff received a mass-produced notice from Defendant dated February 10, 2015.
12. Defendant’s notice is from dated February 10, 2015 for a debt they are claiming is from April 3, 2004. This notice is a violation since they are attempting to collect on a debt that is past the statute of limitations. See letter from defendant annexed hereto as **Exhibit “A.”**

13. Defendant's letter also is in violation of Plaintiff's rights under the FDCPA's fair practice, as the letter was sent in the Spanish language which is not the language the Plaintiff speaks.

FIRST CAUSE OF ACTION

(Violations of the FDCPA)

14. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "13" herein with the same force and effect as if the same were set forth at length herein.

15. 15 U.S.C. §1692f prohibits a debt collector from using any unfair or unconscionable means to collect or attempt to collect an alleged debt.

16. Defendant is attempting to collect on a debt past the statute of limitations and in Spanish. Plaintiff had no means to try to learn what the letter said, and the letter is past the statute of limitations to collect on the debt in New York.

17. As a result of Defendant's violations of the FDCPA, Plaintiff has been damaged and is entitled to damages in accordance with the FDCPA.

DEMAND FOR TRIAL BY JURY

18. Plaintiff hereby respectfully requests a trial by jury for all claims and issues in its Complaint to which it is or may be entitled to a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment from the Defendants as follows:

- A. For actual damages provided and pursuant to 15 U.S.C. § 1692k(a)(1);
- B. For statutory damages provided and pursuant to 15 U.S.C. § 1692k(a)(2)(A)
- C. For statutory damages provided and pursuant to 15 U.S.C. § 1692k(a)(2)(B)

- D. For attorneys' fees and costs provided and pursuant to 15 U.S.C. 1692k(a)(3);
- E. A declaration that the Defendant's practices violated the FDCPA;
- F. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

Dated: July 3, 2015

Respectfully submitted,

Subhan Tariq, Esq.
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Attorney for Plaintiff

To: Portfolio Recovery Associates, L.L.C.
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(via prescribed service)

Clerk of the Court,
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

(Via Electronic Court Filing)